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Copyright Royalty Board

**Docket No. 2012-7 CRB SD 1999-2009  
(Phase II)**

<sup>1</sup> See October 27, 2016 Order at 1 (noting that IPG's Fourth Motion For Modification Of March 13, 2015 Order was filed on September 15, 2016).

# UNDERSIZED DOCUMENTS

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to comply with the regulations governing service in these proceedings. MPAA and SDC also seek any other relief that the Judges deem appropriate as a consequence for IPG's disregard of the regulations.<sup>2</sup>

### ARGUMENT

In the October 27, 2016 Order, the Judges observe, more than once, that no party responded to the IPG Motion. *See* October 27, 2016 Order at 1 and 2. There is a very good reason that no party responded to the IPG Motion—none of the parties adverse to IPG in this proceeding had any idea that the IPG Motion had been filed. As explained in the attached declarations from MPAA counsel Lucy Holmes Plovnick (Exhibit 1, “Plovnick Declaration”) and SDC counsel Matthew J. MacLean (Exhibit 2, “MacLean Declaration”), IPG never served MPAA or SDC with a copy of the IPG Motion. *See* Plovnick Declaration at ¶ 3; MacLean Declaration at ¶ 3. Indeed, the first time that MPAA and SDC learned of the IPG Motion was when the Judges served them with a copy of the October 27, 2016 Order over email. *See id.* MPAA and SDC obtained a copy of the IPG Motion from the Copyright Royalty Board (“CRB”) office staff for the first time only after the October 27, 2016 Order was issued.<sup>3</sup>

The IPG Motion includes a certificate of service signed electronically by IPG's counsel, Brian Boydston, whereby Mr. Boydston certifies that a copy of the IPG Motion was sent “by electronic mail” to both MPAA and SDC on September 15, 2016. *See* IPG Motion at 6. However, despite this certification, neither MPAA nor SDC actually received a service copy of

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<sup>2</sup> MPAA and SDC are not seeking reconsideration of the Judges' October 27, 2016 Order on the merits, as they do not oppose the substantive rulings issued by the Judges therein. MPAA and SDC do, however, object to IPG's failure to serve them with a copy of the Motion when it was filed.

<sup>3</sup> Upon receipt of the October 27, 2016 Order, counsel for MPAA immediately called the CRB office, informed CRB staff that MPAA had not been served with a copy of the IPG Motion, and requested a copy of the IPG Motion. *See* Plovnick Declaration at ¶ 4. The CRB staff provided a copy of the IPG Motion to Ms. Plovnick over email on October 27, 2016, and Ms. Plovnick forwarded a copy to SDC. *See id.* at ¶ 4 and Exhibit A.

the IPG Motion (either via electronic mail or via hard copy). *See* Plovnick Declaration at ¶ 3; MacLean Declaration at ¶ 3. Accordingly, it appears that Mr. Boydston's certification at the end of the IPG Motion was at best erroneous, or at worst, false.

MPAA and SDC accept that sometimes parties make mistakes. However, IPG's history is replete with incidents of flouting the regulations governing service of process in these proceedings to the detriment of their opposing parties. On June 26, 2006, following a series of repeated regulatory transgressions by IPG, including specifically IPG's failure to effect proper service of process on the other parties to the proceedings, the Register of Copyrights ("Register") ruled as follows:

While the Office will excuse a party's occasional lapse in following the regulations, even those governing proper service, the Office cannot and will not tolerate a party's persistent failure to comply as is the case here. IPG's repeated failure to effect proper service even after the Office had cited the appropriate rules demonstrates a flagrant disregard of the rules governing these proceedings and of Orders issued therein, as well as a lack of respect for the Office and the other parties in these proceedings. Administrative proceedings cannot be run effectively or efficiently where parties to the proceeding disregard the carefully developed procedures governing the process, and a party will be, and indeed has been, dismissed from a proceeding for failure to adhere to its rules and comply with its orders. *See*, Order, in Docket No. 2002-1 CARP DTRA3 (August 15, 2003) (dismissing party in rate adjustment proceeding for failure to comply with Office Order and with service requirements); Order, in Docket No. 95-1 CARP DD 92-94 (May 9, 1996) (dismissing two participants in a distribution proceeding for failure to comply with procedural and substantive rules for the submission of written direct cases, including failure to effect proper service on the parties in the proceeding). Accordingly, any future failure by IPG to comply with the Office's regulations, especially those governing the proper service of pleadings, will result in IPG's dismissal from these proceedings.

Order, Docket Nos. 2001-8 CARP CD 98-99, et al., at 6 (June 26, 2006) ("June 26, 2006 Order"); *see also* Plovnick Declaration at ¶ 5 and Exhibit B.

As the foregoing precedent demonstrates, IPG has already been put on notice regarding the importance of following the Judges' regulations governing proper service of process and that failure to follow such rules can have serious consequences, including even dismissal from a proceeding. In the June 26, 2006 Order, the Register was reacting to improper or delayed service by IPG. *See* June 26, 2006 Order at 4-6. Here, the situation is even worse, as MPAA and SDC were not served with the IPG Motion *at all*, and only learned that the IPG Motion had been filed when the Judges ruled on it in the October 27, 2016 Order. IPG's conduct is improper and the Judges should not permit such mischief in royalty distribution proceedings.

### CONCLUSION

For all of the foregoing reasons, the Judges should grant MPAA and SDC's motion, and formally admonish IPG for its failure to serve MPAA and SDC, as required by the Judges' regulations. MPAA and SDC also seek any other relief the Judges deem appropriate.

Respectfully submitted,

**MPAA-REPRESENTED PROGRAM  
SUPPLIERS**

Lucy Holmes Plovnick

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**SETTLING DEVOTIONAL CLAIMANTS**

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Facsimile: (202) 663-8007  
Clifford.Harrington@PillsburyLaw.com

Dated: November 1, 2016

## CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November, 2016, a copy of the foregoing pleading was sent by Federal Express overnight mail to the party listed below.

Brian D. Boydston  
PICK & BOYDSTON LLP  
10786 Le Conte Avenue  
Los Angeles, CA 90024

Lucy Holmes Plovnick  
Lucy Holmes Plovnick

# **EXHIBIT 1**



In the Matter of	)	
Distribution of the 2004, 2005, 2006	)	
2007, 2008 and 2009	)	
Cable Royalty Funds	)	
	)	

**Docket No.    2012-6 CRB CD 2004-2009**  
**(Phase II)**

	)	
<b>In the Matter of</b>	)	
	)	<b>Docket No. 2012-7 CRB SD 1999-2009</b>
<b>Distribution of the 1999-2009</b>	)	<b>(Phase II)</b>
<b>Satellite Royalty Funds</b>	)	
	)	

I, Lucy Holmes Plovnick, declare:

1. I am over 18 years of age and an attorney at law duly licensed to practice law in Rhode Island, Massachusetts, and the District of Columbia. I am a partner in the law firm of Mitchell Silberberg & Knupp LLC, attorneys of record for Motion Picture Association of America, Inc. ("MPAA") and other program suppliers who have agreed to representation by MPAA in the captioned proceedings.

2. I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

3. On October 27, 2016, I received a service copy of the Copyright Royalty Judges' ("Judges") Order Granting IPG Fourth Motion For Modification Of March 13, 2015 Order ("October 27, 2016 Order") over email. Upon reading the October 27, 2016 Order I learned for the first time that Independent Producers Group ("IPG") had filed its Fourth Motion For

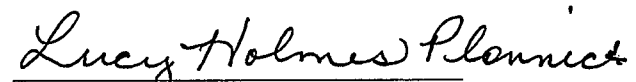
Modification Of March 13, 2015 Order ("IPG Motion") on September 15, 2016. Neither I, nor any of the other attorneys from my law firm representing MPAA in this proceeding received a service copy of the IPG Motion (either via electronic mail, or via hard copy) prior to the issuance of the October 27, 2016 Order.

4. Upon receipt of the October 27, 2016 Order, I immediately called the Copyright Royalty Board ("CRB") office, informed CRB staff that MPAA had not been served with a copy of the IPG Motion, and requested a copy of the IPG Motion. The CRB staff provided a copy of the IPG Motion to me over email on October 27, 2016. A true and correct copy of my email correspondence with Ms. Anita Blaine of the CRB transmitting the IPG Motion is attached hereto as Exhibit A. After receiving a copy of the IPG Motion from Ms. Blaine, I forwarded a copy to counsel for the Settling Devotional Claimants ("SDC").

5. Attached hereto as Exhibit B is a true and correct copy of the Order issued by the Register of Copyrights in Docket Nos. 2001-8 CARP CD 98-99, et al., (June 26, 2006).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 1st day of November, 2016, at Washington, D.C.

  
Lucy Holmes Plovnick

# **EXHIBIT A**

## Plovnick, Lucy

---

**From:** Blaine, Anita <anbr@loc.gov>  
**Sent:** Thursday, October 27, 2016 12:37 PM  
**To:** Plovnick, Lucy  
**Subject:** RE: IPG's motion as requested

Understood.

---

**From:** Plovnick, Lucy [<mailto:lhq@msk.com>]  
**Sent:** Thursday, October 27, 2016 12:36 PM  
**To:** Blaine, Anita  
**Subject:** RE: IPG's motion as requested

Thanks. Despite what it says on the certificate of service MPAA was not served with a copy of this pleading by IPG.



Lucy Holmes Plovnick | Partner, through her professional corporation

T: 202.355.7918 | [lhq@msk.com](mailto:lhq@msk.com)

Mitchell Silberberg & Knupp LLP | [www.msk.com](http://www.msk.com)

1818 N Street NW, 8th Floor, Washington, DC 20036

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**From:** Blaine, Anita [<mailto:anbr@loc.gov>]  
**Sent:** Thursday, October 27, 2016 11:52 AM  
**To:** Plovnick, Lucy  
**Subject:** IPG's motion as requested

Lucy,

Certificate of service states an electronic copy was sent.

Best,  
Anita



COPYRIGHT ROYALTY BOARD

*Anita Brown-Blaine*

Program Specialist  
Library of Congress  
Direct: 202.707.0078

## **EXHIBIT B**



Copyright Arbitration Royalty Panels • United States Copyright Office  
Library of Congress • P.O. Box 70977, Southwest Station • Washington, D.C. 20024  
TEL (202) 707-8380 • FAX (202) 252-3423 • www.copyright.gov

In the Matter of	}	
	}	
Distribution of the 1998-2002 Cable	}	Docket Nos. 2001-8 CARP CD 98-99
Royalty Funds	}	2002-8 CARP CD 2000
	}	2003-2 CARP CD 2001
and	}	2004-5 CARP CD 2002
	}	
Distribution of the 1999-2000 Satellite	}	Docket Nos. 2001-5 CARP SD 1999
Royalty Funds	}	2001-7 CARP SD 2000
	}	

### ORDER

On February 8, 2006, the Office issued an Order in the above-captioned proceedings directing the Independent Producers Group ("IPG") to provide to the Joint Sports Claimants ("JSC") the identity of claimants previously identified in IPG's notices of intent to participate in each of the above-captioned proceedings by no later than February 15, 2006. The Order also provided IPG with an opportunity to respond to the Office's September Orders regarding the current status of its remaining Phase I and Phase II controversies in two of the aforementioned proceedings. Such response, if any, was due by no later than February 13, 2006. Neither document was filed timely with the Office.

On February 16, 2006, IPG filed with the Office its Motion for Acceptance of Late-Filed Response to the September Orders and Notification of Sports Claimants. No party opposed the acceptance of IPG's Notification of Sports Claimants; therefore, the Office grants that part of IPG's motion without discussion. However, the representatives of Phase I claimant categories—namely, Program Suppliers, JSC, Public Television Claimants, National Association of Broadcasters and Broadcaster Claimants Group, American Society of Composers, Authors and Publishers, Broadcast Music, Inc., SESAC, Inc., Canadian Claimants, Devotional Claimants, and National Public Radio ("Phase I Parties")—did oppose the acceptance of IPG's response to the September Orders ("Response"),<sup>1</sup> and IPG filed a reply in support of its motion. For the reasons stated herein, IPG's Motion for Acceptance of Late-Filed Response to the September Orders is denied.

### IPG's Motion

#### *Parties' Positions*

IPG argues that its Response should be accepted because "IPG complied to the best of its ability" to complete a "leviathan task" in an unreasonable time frame, as evidenced by the fact that IPG e-mailed the Office a courtesy copy of the Response. IPG motion at 3. In addition, "IPG understood that the filing need only have been served by February 13, 2006," and not physically received by the Office by that date. IPG motion at 2. Moreover, IPG argues that "[n]o

<sup>1</sup> JSC has filed a motion to strike the reply brief IPG filed in support of its notification of claimants to JSC. This motion will be addressed in a separate Order.

prejudice will inure to any party, or the Copyright Office," because the filing was "less than three business hours late," as it was delivered to the Office's post office box at "11:09 a.m. on February 14, 2006." *Id.*

In their opposition, the Phase I Parties counter that IPG has been afforded sufficient time to respond to the September Orders since the February 8 Order provided IPG with a second opportunity to submit a response. Opposition at 4-5. Phase I Parties point out that the first opportunity was provided by the Office's December 8, 2005, Order, which required all parties to effect proper service of the comments filed in response to the September Orders. IPG admits to receiving this Order as well as the other parties' comments. The Office's December 8 Order also directed all parties, including IPG, to file any objections or oppositions to said comments by December 22, 2005. *Id.* at 5. No such filing was made. *Id.*

The Phase I Parties also contend IPG's Response was three days, not less than three business hours, late. *Id.* at 4. Moreover, the Phase I Parties fail to see how IPG could reasonably believe that the date of mailing constituted the filing date, especially in light of the fact that the Office previously explained what constituted a timely filing in the 1997 cable distribution proceeding in which IPG was a party. *Id.* at 6-7. They go on to argue that they have been prejudiced by IPG's actions, which have delayed the Office's decision on their request for a further distribution of the 2000-2002 cable royalties. *Id.* at 8-9. IPG refutes these arguments in its reply.

## Discussion

### *Scope of the February 8 Order*

Before addressing IPG's motion, the Office must clarify the scope of its February 8 Order. As the Office discussed in that Order, IPG had not received copies of the September Orders pertaining to the proceedings to determine the distribution of the 1998 and 1999 cable funds, Docket No. CARP CD 98-99, or the 1999 satellite funds,<sup>2</sup> Docket No. CARP SD 1999, due to a clerical error; however, IPG had been served copies of the comments filed by the parties in response to those Orders. Nonetheless, so as not to penalize IPG for the Office's error, the Office provided IPG the opportunity, for the very limited purpose, to add to or supplement information already provided by the other parties in their responses to the September Orders issued in those two proceedings. Therefore, given the narrow scope of the Order, IPG's Response should have addressed only the proceedings regarding the 1998-1999 cable funds and the 1999 satellite funds.

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<sup>2</sup> IPG was served copies of the Office's Orders in the other proceedings in accordance with the service lists for those proceedings as they existed in September 2005.

IPG, however, gave the Order a much more expansive reading, as the majority of its Response opposes and/or objects to filings made in proceedings other than the two just mentioned.<sup>3</sup> What IPG fails to appreciate is that any opposition or objection to filings made in proceedings other than those regarding the 1998-1999 cable funds or the 1999 satellite funds are untimely and would not be considered even if the Response were to be accepted. The Office already has afforded all parties, including IPG, the opportunity to file objections or oppositions to filings made in response to the September Orders in those other proceedings. See, Order in above-captioned proceedings at 2 (December 8, 2005). Such objections or oppositions were to be filed with the Office by December 22, 2005.<sup>4</sup> Id. IPG filed nothing in response to that Order and, therefore, has forfeited its right to file such objections or oppositions now; the February 8 Order does not provide them with a second bite of the apple.

We turn now to IPG's motion as it relates to the single portion of its Response that falls within the scope of the February 8 Order.

*IPG's Motion to Accept its Late-Filed Response*

We note at the outset that IPG is not the first party to make an untimely filing. Indeed, on other occasions, the Office has accepted documents filed later than IPG's Response. See, e.g., Orders, in Docket No. 2003-2 CARP CD 2001 (April 6, 2005 and October 9, 2003). When evaluating a party's request to accept a late filing, the Office looks at the totality of the circumstances, such as the party's track record of timeliness in CARP proceedings and the party's compliance with the CARP rules, in addition to the arguments made in a party's motion. Here, the Office finds IPG's arguments unpersuasive, and examination of the totality of circumstances reveals a disturbing pattern of instances where IPG has not followed the proper procedure or has purported to operate under a misapprehension of the Office's rules. Consequently, as discussed below, the Office denies IPG's request to accept its Response.

In both its motion and reply, IPG argues that it made a good faith effort to comply with the Office's February 8 Order, even though that Order imposed on IPG the "leviathan task" of having to "review approximately forty (40) different filings . . . relating to [several] separate cable or satellite pools." Motion at 1; see also Reply brief at 2. The Office is unsympathetic to this argument as IPG was required to review the comments in only two proceedings. See supra. Moreover, IPG was served copies of these comments in December 2005. So, rather than having two business days, as IPG asserts, to review these comments, IPG had nearly two months to do so. If IPG chose not to review these comments until it received the Office's February 8 Order, then it is IPG, and not the Office, who made the task "leviathan." Moreover, had IPG determined

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<sup>3</sup> Specifically, IPG opposes or objects to the following documents: Phase I Claimants' Notice of Partial Settlement and Motion for Further Distribution of 2000, 2001, and 2002 Cable Royalties; MPAA's Joint Notices of Withdrawal of Intention to Participate Regarding 2000 and 2001 Cable Royalties (withdrawing the Notices of Intent of O. Atlas Enterprises, Inc.; Sandra Carter Productions, Inc.; Ward Productions, Inc.; and Fintage Publishing); and MPAA's Motion for Final Distribution of 1996-1997 Satellite Funds.

<sup>4</sup> MPAA's Joint Notices of Withdrawal of Intention to Participate Regarding 2000 and 2001 Cable Royalties were not covered by the Office's December 8 Order, as they were filed on December 14, 2005. However, in accordance with § 251.44(g), oppositions or objections to these filings were due by no later than December 23, 2005.



that it was unable to comply with the Order within the specified time, it could have requested an extension of time in which to file its Response; yet it chose not to do so. For the foregoing reasons, IPG's assertion that the Office's deadline was "unreasonable" does not provide a sufficient basis upon which to grant IPG's motion to accept its late-filed response to the September Orders.

IPG's second argument for acceptance of its Response is two pronged: First, IPG asserts that the Response was "less than three business hours" late; and, second, "IPG understood that the filing need only have been served by February 13, 2006." Motion at 2. With regard to the first prong, IPG fails to appreciate that late is late; and any time a pleading is late, whether by minutes or days, the late party must move for the acceptance of the late pleading and all other parties afforded an opportunity to weigh in on the motion. As such, late-filed pleadings slow down the process—here, the Office's decision on the Phase I Parties' motion for further distribution of the 2000-2002 cable royalties—and require the expenditure of Office resources in ruling on the motion, especially where, as here, other parties file an opposition. Therefore, while the Office does consider, among other factors, the lateness of a pleading in making its determination on whether or not to accept it late, no party should assume, as seems to be the case here, that a filing made a few minutes or hours late will be accepted as a matter of course.

With regard to the second prong, the Office notes that it is the responsibility of those participating in a Copyright Arbitration Royalty Panel ("CARP") proceeding to familiarize themselves with the requirements for such participation, including compliance with filing deadlines. As such, IPG's misapprehension that it had complied with the Office's February 13 deadline by mailing its Response on that date is not a sufficient reason to grant IPG's motion. As the Phase I Parties point out, IPG's position is made more untenable by virtue of its participation in the 1997 cable distribution proceeding where the Office defined for all parties what constituted a timely filing. Order, in Docket No. 2000-2 CARP CD 93-97 (January 12, 2000).

Consequently, IPG's arguments supporting acceptance of its late-filed Response are not particularly persuasive and are less so when coupled with IPG's pattern of noncompliance with the Office's rules.

#### *IPG's Noncompliance with Office Rules*

As mentioned above, IPG has exhibited a seeming indifference to the Office and its rules, as evidenced by its repeated failure to comply with the rules governing the service of pleadings.<sup>5</sup> Most disturbing, however, is the fact that IPG blatantly ignored an Office Order. On December 8, 2005, because many parties, including IPG, failed to properly serve their comments in response to the September Orders, the Office issued an order in the above-captioned proceedings directing all parties who had filed comments to effect proper service in accordance

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<sup>5</sup> In addition to the service problems discussed herein, the Phase I Parties raise two other issues, namely, IPG's failure to comply with the Office's Order dated February 22, 2006 (requiring IPG to refile and re-serve its Response due to missing pages; IPG served only the missing pages instead of the entire document) and its failure to comply with § 251.44(e)(2) (requiring provision of party's address and telephone number). Opposition at 4 n.3 and 6 n.5. While the Phase I Parties are correct, the Office will focus on IPG's more egregious transgressions. *See infra*.

with 37 C.F.R. § 251.44(g) by December 13, 2005. See, Order, in above-captioned proceedings, dated December 8, 2005. IPG failed to comply with this Order and to date has offered no explanation for its failure to do so.<sup>6</sup>

IPG's disdain toward effecting proper service is evidenced further by the fact that none of the filings made by IPG since issuance of the December 8 Order have been served properly, despite the Office's reference to the regulation governing service in the December 8 Order. For example, the motion at issue here, according to the certificate of service,<sup>7</sup> was served on the other parties by first-class mail, in direct contravention to 37 C.F.R. § 251.44(g), which states, in pertinent part, that "all motions, . . . , oppositions, and replies [must be served] on the other parties or their counsel by means no slower than overnight express mail on the same day the pleading is filed." All pleadings filed by IPG have been served either by first-class or priority mail, neither of which is an acceptable means under the regulations. IPG defends its use of these alternative means by arguing that the rule

requires that service be accomplished no later than the day (presumably business day) following filing with the Copyright Office. Notwithstanding, if a filing schedule is set by the CARP, and IPG files its document prior to its deadline, as long as service is accomplished prior to the deadline otherwise directed by the CARP, no prejudice has occurred.

IPG reply brief at 4 n.6.

IPG's interpretation simply is wrong. Again, the rule states that service must be "by means no slower than overnight express mail on the **same day the pleading is filed**" with the Office. 37 C.F.R. § 251.44(g) (emphasis added.) Therefore, in order for a party to be in compliance with the rule, the other parties must receive the pleading the next business day after it is filed with the Office, even if the pleading is filed prior to a deadline set by the Office. No party, including IPG, can circumvent the rule by a unilateral determination that no prejudice to the other parties will result from its use of alternative service methods. Parties are bound by the regulations and may not vary from their requirements unless allowed to do so by the Office. Consequently, a party who uses first-class or priority mail simply does not comply with the rule.

While the Office will excuse a party's occasional lapse in following the regulations, even those governing proper service, the Office cannot and will not tolerate a party's persistent failure to comply as is the case here. IPG's repeated failure to effect proper service even after the Office had cited the appropriate rules demonstrates a flagrant disregard of the rules governing these proceedings and of Orders issued therein, as well as a lack of respect for the Office and the other

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<sup>6</sup> IPG cannot claim that it was unaware of the December 8, 2005, Order or of its failure to comply with that Order, as IPG confirmed receipt of the Order, and the Office has made reference to its noncompliance. See Order, in above-captioned proceedings, dated February 8, 2006, at 2 n.1.

<sup>7</sup> The Certificate of Service actually refers to the service of IPG's Response but the Office presumes that the motion was served in a similar fashion based on statements made in the Phase I Parties' opposition. Opposition at 4 n.3.

parties in these proceedings. Administrative proceedings cannot be run effectively or efficiently where parties to the proceeding disregard the carefully developed procedures governing the process, and a party will be, and indeed has been, dismissed from a proceeding for failure to adhere to its rules and comply with its orders. See, Order, in Docket No. 2002-1 CARP DTRA3 (August 15, 2003) (dismissing party in rate adjustment proceeding for failure to comply with Office Order and with service requirements); Order, in Docket No. 95-1 CARP DD 92-94 (May 9, 1996) (dismissing two participants in a distribution proceeding for failure to comply with procedural and substantive rules for the submission of written direct cases, including failure to effect proper service on the parties in the proceeding). Accordingly, any future failure by IPG to comply with the Office's regulations, especially those governing the proper service of pleadings, will result in IPG's dismissal from these proceedings.


In relation to the motion at hand, the Office will not reward IPG for its repeated transgressions by accepting its late-filed Response.

Wherefore, **IT IS ORDERED** that IPG's Motion for Acceptance of Late-Filed Response to the September Orders and Notification of Sports Claimants is **GRANTED IN PART, DENIED IN PART**. The Office accepts IPG's Notification of Sports Claimants because its request was unopposed; it does not accept IPG's Response to the September Orders.

**SO ORDERED.**

Marybeth Peters  
Register of Copyrights

BY:

  
Tanya M. Sandros  
Associate General Counsel

DATED: June 26, 2006

## **EXHIBIT 2**

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C.

\_\_\_\_\_  
In the Matter of )

)  
Distribution of the 2004, 2005, 2006 )  
2007, 2008 and 2009 )  
Cable Royalty Funds )  
\_\_\_\_\_

Docket No. 2012-6 CRB CD 2004-2009  
(Phase II)

\_\_\_\_\_  
In the Matter of )

)  
Distribution of the 1999-2009 )  
Satellite Royalty Funds )  
\_\_\_\_\_

Docket No. 2012-7 CRB SD 1999-2009  
(Phase II)

**DECLARATION OF MATTHEW J. MACLEAN**

I, Matthew J. MacLean, declare:

1. I am over 18 years of age and an attorney at law duly licensed to practice law in District of Columbia and other jurisdictions. I am a partner in the law firm of Pillsbury Winthrop Shaw Pittman LLP, attorneys of record for the Settling Devotional Claimants ("SDC") in the captioned proceedings.

2. I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

3. On October 27, 2016, my firm received a service copy of the Copyright Royalty Judges' ("Judges") Order Granting IPG Fourth Motion For Modification Of March 13, 2015 Order ("October 27, 2016 Order") over email. Upon reading the October 27, 2016 Order, my colleagues and I learned for the first time that Independent Producers Group ("IPG") had filed its Fourth Motion For Modification Of March 13, 2015 Order ("IPG Motion") on September 15,

2016. Neither I nor any of the other attorneys from my law firm representing the SDC in this proceeding received a service copy of the IPG Motion (either via electronic mail, or via hard copy) prior to the issuance of the October 27, 2016 Order. I first received a copy of the IPG Motion on October 27, 2016, by email from Lucy Holmes Plovnick, counsel for MPAA, about an hour and a half after my firm received the October 27, 2016 Order.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 31st day of October, 2016, at Washington, D.C.

  
Matthew J. MacLean